

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW HAMPSHIRE

COALITION FOR OPEN DEMOCRACY,
et al.,

Plaintiffs,

v.

DAVID M. SCANLAN, in his official capacity
as New Hampshire Secretary of State, *et al.*,

Defendants.

Case No. 1:24-cv-00312-SE-TSM

NEW HAMPSHIRE YOUTH MOVEMENT,

Plaintiff,

v.

DAVID M. SCANLAN, in his official capacity
as New Hampshire Secretary of State,

Defendant.

Case No. 1:24-cv-00291-SE-TSM

JOINT MOTION TO CONSOLIDATE CASES & MODIFY DEADLINES

NOW COME all parties, by and through their respective counsel, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, and move this Court to consolidate the above-captioned cases, adopt the Revised Joint Discovery Plan in *Open Democracy* (ECF No. 53) as controlling in the consolidated cases; and modify deadlines as requested herein. In support of this Motion, the parties state as follows:

1. Two related cases are currently pending before this Court: *Coalition for Open Democracy, et al. v. Scanlan, et al.*, Case No. 1:24-cv-00312-SE-TSM (“*Open Democracy*”) and *New Hampshire Youth Movement v. Scanlan*, Case No. 1:24-cv-00291-SE-TSM (“*Youth Movement*”).

2. These cases involve common questions of law and fact, as both challenge the constitutionality of House Bill 1569 under the First and Fourteenth Amendments to the United States Constitution.

3. Rule 42(a) of the Federal Rules of Civil Procedure provides that if actions before the Court involve a common question of law or fact, the court may consolidate the actions or issue any other orders to avoid unnecessary cost or delay. Fed. R. Civ. P. 42(a).

4. Defendants' discovery responses and document productions have been identical. Some of the questions of law and issues of fact that will be resolved in the merits stage of these lawsuits are nearly identical. Consolidation of these cases would promote judicial economy, avoid unnecessary costs and delays, and would not result in prejudice to any party.

5. The Court previously entered joint discovery plans in both cases. *Open Democracy*, ECF No. 53 (End. Order Mar. 17, 2025); *Youth Movement* ECF No. 51 (End. Order Mar. 25, 2025). The parties request that if the Court consolidates these cases, that the Court also adopt Open Democracy's Revised Joint Discovery Plan (ECF No. 53) as the discovery plan governing the conduct and scheduling of the consolidated cases, with the following modifications to deadlines:

- a. **Trial Date:** Combined cases bench trial beginning February 9, 2025
(*Youth Movement* currently scheduled for March 9, 2025)
- b. **Challenges to Expert Testimony:** Due on or before November 17, 2025
(currently due on November 10, 2025)
- c. **Motions for Summary Judgment:** Due on or before October 31, 2025
(currently due on October 10, 2025; the Court previously indicated openness to a shorter pre-trial deadline than the standard 120 days)

d. **Close of Discovery:** October 24, 2025 (currently closes on September 22, 2025)

e. **Expert Rebuttal Reports:** Due on or before September 26, 2025 (currently due on September 19, 2025)

f. **Defendants' Answers:** Due on or before September 9, 2025 (currently due on August 26, 2025 and August 27, 2025 in *Open Democracy* and *Youth Movement*, respectively)

g. **Defendants' Expert Disclosures:** Due on or before August 29, 2025 (currently due on August 22, 2025)

6. Consolidating these cases, with the adoption of the February 9, 2026 trial date and the modifications to the deadlines above, would serve the interests of justice and judicial economy to ensure the just and speedy determination of this lawsuit. *See* Fed. R. Civ. P. 1.

7. Local Rule 7.1(a)(2): Due to the nature of the relief requested, no memorandum of law is required.

8. Local Rule 7.1(c): All parties to this lawsuit join this Motion and the relief it requests.

9. Local Rule 7.2(a): This Motion and the relief it seeks will not result in the continuance of any currently scheduled trial or hearing, but it will require modification to existing deadlines in the *Open Democracy* Revised Joint Discovery Plan. Accordingly, the parties have attached Civil Form 3 as Exhibit A.

Prayer for Relief

WHEREFORE, the parties respectfully request that this Honorable Court:

A. Grant this Motion to Consolidate *Open Democracy*, Case No. 1:24-cv-00312-SE-TSM and *Youth Movement*, Case No. 1:24-cv-00291-SE-TSM;

- B. Adopt the *Open Democracy* Revised Joint Discovery Plan (ECF No. 53) as the discovery plan governing the conduct and scheduling of the consolidated cases;
- C. Conduct a consolidated bench trial beginning on February 9, 2025;
- D. Extend Defendants' expert disclosure deadline to August 29, 2025, Defendants' Answers to September 9, 2025, the close of discovery and the deadline for expert rebuttal reports to September 26, 2025, challenges to expert testimony to November 17, 2025, and Motions for Summary Judgment to October 31, 2025; and
- E. Grant such further relief as is just and equitable.

Respectfully submitted,

DEFENDANTS DAVID M. SCANLAN, in his
official capacity as New Hampshire Secretary of
State and JOHN M. FORMELLA, in his official
capacity as New Hampshire Attorney General

By their attorney,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: August 22, 2025

/s/ Michael P. DeGrandis
Michael P. DeGrandis, N.H. Bar No. 277332
Assistant Attorney General
Matthew T. Broadhead, N.H. Bar No. 19808
Associate Attorney General
Catherine A. Denny, N.H. Bar No. 275344
Assistant Attorney General
Office of the Attorney General, Civil Bureau
1 Granite Place South
Concord, NH 03301
(603) 271-3650
michael.p.degrandis@doj.nh.gov
catherine.a.denny@doj.nh.gov

and

COALITION FOR OPEN DEMOCRACY,
LEAGUE OF WOMEN VOTERS OF NEW
HAMPSHIRE, THE FORWARD
FOUNDATION, MCKENZIE NYKAMP

TAYLOR, DECEMBER RUST, STEVEN BORNE (as father and next friend of MILES BORNE), and RUSSELL MUIRHEAD (as father and next friend of ALEXANDER MUIRHEAD and LILA MUIRHEAD)

By their attorneys,

Jacob Van Leer*
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 15th Street NW
Washington, D.C. 20005
(202) 715-0815
jvanleer@aclu.org

Geoffrey M. Atkins*
John T. Montgomery*
Desiree M. Pelletier*
ROPES & GRAY LLP
Prudential Tower, 800 Boylston Street
Boston, MA 02199
(617) 951-7000
Geoffrey.Atkins@ropesgray.com
John.Montgomery@ropesgray.com
Patrick.Roath@ropesgray.com
Desiree.Pelletier@ropesgray.com

/s/ Henry Klementowicz
Henry Klementowicz, N.H. Bar No. 21177
Gilles Bissonnette, NH Bar No. 265393
AMERICAN CIVIL LIBERTIES UNION OF NEW
HAMPSHIRE FOUNDATION
18 Low Avenue
Concord, NH 03301
(603) 224-5591
henry@aclu-nh.org
gilles@aclu-nh.org

Ming Cheung*
Sophia Lin Lakin*
Clayton Pierce*
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad Street
New York, NY 10004
(212) 549-2500
mcheung@aclu.org
slakin@aclu.org

* Admitted *pro hac vice*

and

PLAINTIFF NEW HAMPSHIRE YOUTH
MOVEMENT

By its attorneys,

David R. Fox*
ELIAS LAW GROUP LLP
250 Massachusetts Avenue, N.W.
Suite 400
Washington, D.C. 20001
(202) 968-4490
dfox@elias.law

/s/ Steven J. Dutton
Steven J. Dutton, N.H. Bar No. 17101
Connor W. Harding, N.H. Bar No. 276438
McLANE MIDDLETON, P.A.
900 Elm Street
Manchester, NH 03101
(603) 628-1377

Tyler L. Bishop*
ELIAS LAW GROUP LLC
1700 Seventh Avenue
Suite 2100
Seattle, WA 98101
(206) 656-0177
tbishop@elias.law

steven.dutton@mclane.com
connor.harding@mclane.com

* Admitted *pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all parties of record through the Court's e-filing system.

/s/ Michael P. DeGrandis
Michael P. DeGrandis